

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**VICKI V. BUSBY,**

**Plaintiff,**

**v.**

**JRHBW REALTY, INC. d/b/a**  
**REALTYSOUTH,**

**Defendant.**

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) **Case No.: 2:04-CV-2799-VEH**  
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## ORDER ON CLAIMS ADMINISTRATIVE PROCESS

The parties filed a Notice of Filing of Proposed Order Regarding Claims Process (Doc. 195) (the “Proposed Order”) on July 9, 2010. The court has studied the Proposed Order, finds it to be acceptable, and **HEREBY ADOPTS** it subject to only some minor modifications.<sup>1</sup> Accordingly, the following claims administrative process **SHALL APPLY** to this class action litigation:

Step 1: Employment of a Claims Administrator: Plaintiff shall employ a Claims Administrator to update the list of class members to whom notice was last sent

<sup>1</sup> By separate order, the court will address the issue of which party shall bear the costs of class notice and administration. Simultaneous briefing with respect to this area is due on July 23, 2010. *See* CM/ECF margin order dated July 13, 2010.

and who did not opt out. The Claims Administrator will employ locator services, or other reasonable means, to obtain current addresses for as many potential class members as possible. Per the Court's earlier Order (Doc. 192), this list shall not include individuals involved in transactions where their claims would be based on "the \$100 or \$250 'flat fee' paid in accordance with RealtySouth's post March 1, 2009, contracts and closing process," or individuals involved in cash sales, or where the transaction is otherwise not covered by RESPA based on the documents in RealtySouth's file. The class definition adopted by this Court in its September 17, 2008 Order (Doc. 102), is hereby amended to establish an end date for the class period of March 1, 2009. Individuals whose only transactions involving RealtySouth took place after March 1, 2009, will not be included in the class and those individuals will be free to pursue through their own individual actions any claims they believe they have based on their post-March 1, 2009 transactions.

Step 2: Mailing of Notice to Class Members: Plaintiff will mail a notice (the "Notice") to the class members advising them of the partial summary judgment in favor of the class and the opportunity to submit a claim for the payment of damages. The Notice may include the actual claim form and instructions, or may direct class members to the website [www.hwnn.com/realtyouthclassaction](http://www.hwnn.com/realtyouthclassaction) where the class members can download the claim form and learn further information about the claims

process. The Notice shall first be approved by the Court and must be shared with RealtySouth fifteen (15) days prior to its submission to the Court for approval to provide RealtySouth an opportunity to provide any comments on the proposed notice.

Step 3: Claim Deadline: All claim forms and supporting documentation must be postmarked, emailed, or faxed within seventy-five (75) days from the date of the mailing of the Notice.

Step 4: Report on Returned Mailings And Notice By Publication: Thirty (30) days after the mailing of notice, the Claims Administrator will report to the parties and the Court the total number of mailings returned for no good address along with the list of class member names to whom notice could not be delivered. If the number of notices that cannot be delivered exceeds ten percent (10%) of the individuals sent a mailed notice, Class Counsel will provide notice by publication of the partial summary judgment and an opportunity to make a claim for damages in the following major Alabama Newspapers: BIRMINGHAM NEWS, HUNTSVILLE TIMES, MONTGOMERY ADVERTISER, and the MOBILE PRESS-REGISTER. The notice will indicate the number of persons to whom notice could not be delivered and will direct persons who believe they are part of the class to go the website [www.hwnn.com/realtyouthclassaction](http://www.hwnn.com/realtyouthclassaction) to see if their name and property address are on the list of undelivered claim forms. If a person finds their name and property

address on the list, they will be directed to contact the claims administrator to obtain a claim form, or they can download a claim form from the website. The published notice and website will also inform the public that if they believe they paid the ABC Fee during the class time period, but did not receive notice and their name is not on the undeliverable list, they can also submit a claim to the claims administrator to be reviewed by the Claims Administrator, subject to contest by RealtySouth, for determination. The notice shall first be approved by the Court and must be shared with RealtySouth fifteen (15) days prior to its submission to the Court for approval to provide RealtySouth an opportunity to provide any comments on the proposed notice.

Step 5: Compilation of Claim Forms Received by the Deadline. If the claim form or supporting documentation of one or more claimants is not complete, the Claims Administrator shall send notice to those claimants as such incomplete forms are received, in a form which shall be approved by the Court after all parties have had an opportunity to review and comment on the proposed notice, advising them of the nature of the deficiency and giving them twenty-one (21) days to cure the deficiency. Within thirty (30) days from the deadline for receiving claims, claim forms received by the Claim Deadline will be compiled by the Claims Administrator into two categories (along with appropriate lists), (1) those claims forms that are complete and

have the appropriate documentation, including those claims forms where supplemental information was timely provided in the 15 day supplemental period provided above, and (2) those where the form is incomplete and/or lack the required documentation. If the parties cannot agree on eligibility within sixty (60) days of the report and all supporting documentation being received from the Claims Administrator, then RealtySouth shall notify the Court which, if any, claims it is contesting. This sixty day period may be expanded upon motion by either party and a showing of good cause. For example, if the number of claims is particularly large, the parties may need additional time to evaluate the individual claims. Once this process is completed, the Court will then establish deadlines for a dispositive decision and, if necessary, a trial, of any claims disputed by RealtySouth and provide seventy-five (75) days for limited written discovery in connection with disputed claims relating to individual claimant's entitlement to relief, although depositions may also be permitted during this period with leave of the Court.

Step 6: Resolution of Disputed Claims Calculation and Entry of Judgment:

The Court, with the aid of a jury or otherwise, will resolve the disputed claims and set a deadline for the parties to submit a stipulated form of judgment based upon the Court's rulings and without waiver of any side's contested position(s). Subject to any further refinement of the parties' stipulated form of judgment by the Court, judgment

will be entered accordingly.

**DONE** and **ORDERED** this the 15th day of July, 2010.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written over a horizontal line.

**VIRGINIA EMERSON HOPKINS**

United States District Judge